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EXAMINER	
WORJLOH, JALATEE	
ART UNIT	PAPER NUMBER
3685	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/029,159	DEEDS ET AL.	
	Examiner	Art Unit	
	Jalatee Worjloh	3685	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 January 2010*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *35-47* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *36-39,41 and 47* is/are rejected.

7)☒ Claim(s) *35,36,39,40, 42-47* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. This Office Action is responsive to the amendment filed January 19, 2010.

2. Claims 35-47 are pending.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

3. Claims 35, 36, 39, 42, 43 and 47 are objected to because of the following informalities:

4. In claim 35:

- move the phrase "a content manager configured to cause the apparatus to at least:" into the body of the claim"
- change "cause transmission" to “transmit”
- change "cause presentment" to “present”

5. In claim 36:

- change "causing presentment of” to “presenting”

6. In claim 39:

- change “causing transmission” to “transmitting”
- change “causing storage of” to “storing”
- “causing, by the content manager of the user device, presentment” to “presenting, by the content manager of the user device”

7. In claim 42:

- change "cause transmission" to "transmit"
- change "cause presentment" to "present"

8. In claim 43:

- change "causing transmission" to "transmitting"
- change "causing storage" to "storing"
- change "causing notification" to "notifying"
- change "causing a reward to be provided to a user" to "dispensing a reward to a user".

9. In claim 47:

- "causing presentment of" to "presenting"

Please make corrections in all related limitations.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

11. Claims 36-39, 41, 43, 44-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Publication No. 2002/0010698 to Shin et al. ("Shin") and US Publication No. 2002/0092910 to Kontogouris in view of U.S. Publication No 2007/0162398 to Tadayon et al. ("Tadayon").

Referring to claims 36-38, Shin discloses receiving an indication of selected content, causing presenting at least a first locking requirement associated with the selected content to a user device wherein said locking requirement defines a specific period of time or a specified amount of usage for which the content is locked in at the user device and required to be presented, determining a selection of the at least a first locking requirement and providing the selected content from a network based device to the user together with the at least first selected locking requirement and receiving an indication of said at lest first selected locking requirement having been met (see figs. 2A, 2B, 4, paragraphs 0010, 0011, 0022, 0023, [0025]). Shin does not expressly disclose receiving a device identifier of the user device, providing, by a network based device, based at least in part on the received identifier, the selected content, permitting the selected content to be presented upon each occurrence of a predefined condition associated with the selected content until the at least the first selected locking requirement is met and providing a reward in response to said indication. Tadayon discloses receiving a device identifier of the user device, providing, by a network based device, based at least in part on the received identifier (see abstract). Kontogouris discloses permitting selected content to be presented upon each occurrence of a predefined condition associated with the selected content until the at least a first selected locking requirement is met (see paragraph [0054] – the user inputs a request for access to a specific content; an interactive banner is displayed; if the user responds correctly to the interactive banner advertisement access is allowed. Otherwise, the banner will continue to display until the browser or communications program is exited), providing a reward in response to an indication (see paragraphs [0055] & [0056]). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify Shin to include the elements

taught by Tadayon and Kontogouris. One of ordinary skill in the art would have been motivated to do this because it prevents unauthorized access the locked content.

Referring to claims 39 and 41, Shin discloses causing transmission of an indication of selected content, receiving at least a first locking requirement associated with the selected content at a user device, wherein said locking requirement associated with the selected content at a user device, wherein said locking requirement defines a specific period of time or a specified amount of usage for which the content is locked at the user device and required to be presented, determining, by the a content manager of the user device, selection of the at least the first selected locking requirement, receiving said selected content and causing storage of said selected content in a memory of the user device (see figs. 2A, 2B, 4, paragraphs 0010, 0011, 0022, 0023, [0025]). Shin does not expressly disclose causing transmission of a device identifier of the user device to a network based device, presenting the selected content with the user device upon each occurrence of a predefined condition associated with the selected content until at least the first selected locking requirement is met and receiving an indication of a reward. Tadayon discloses receiving a device identifier of the user device, providing, by a network based device, based at least in part on the received identifier (see abstract). Kontogouris discloses permitting selected content to be presented upon each occurrence of a predefined condition associated with the selected content until the at least a first selected locking requirement is met (see paragraph [0054] – the user inputs a request for access to a specific content; an interactive banner is displayed; if the user responds correctly to the interactive banner advertisement access is allowed. Otherwise, the banner will continue to display until the browser or communications program is exited; fig. 7 & paragraph [0060]) and receiving an indication of a reward (see

paragraphs [0055] & [0056]). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify Shin to include the elements taught by Tadayon and Kontogouris. One of ordinary skill in the art would have been motivated to do this because it prevents unauthorized access the locked content and conveniently provides incentives in a format suitable for mobile devices (see paragraph [0009] &[0010] of Kontogouris).

Referring to claims 43-46, Shin discloses transmitting an indication of selection of content from a plurality of content to form selected content, receiving at least one locking requirement including a first locking requirement associated with the selected content, selecting acceptance of at least the first locking requirement in response to receiving the at least one locking requirement, receiving said selected content and storing said selected content following selection of the content and at least the first locking requirement, operating upon the selected content in accordance with the at least the first locking selected requirement, determining when the first locking requirement is met, notifying a network based device when the first selected locking requirement is met, unlocking, when the first selected requirement is met the selected content data to release the selected content out of the first selected locking requirement (see fig. 2A, 2B, 4, paragraphs [0010], [0011], [0022], and [0023]). Shin does not expressly disclose presenting the selected content upon each occurrence of a predefined condition associated with the selected content or dispensing a reward or the selected content of the plurality of content comprises advertising content and wherein said method further comprises the operation of displaying the advertising according to the at least the first selected locking requirement, wherein the at least the first selected locking requirement defines a manner by which to display the advertising content in human perceptible form;. Kontogouris discloses these features (see

paragraphs [0054]- [0056], [0060] & fig. 7). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the method taught by Shin to include the elements of Kontogouris. One of ordinary skill in the art would have been motivated to do this because it prevents unauthorized access the locked content and conveniently provides incentives in a format suitable for mobile devices (see paragraph [0009] &[0010] of Kontogouris).

12. Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shin, Kontogouris, and Tadayon as applied to claim 39 above, and further in view of U.S. Publication No. 2006/0183097 to Ishii.

Shin discloses the selected content (see claim 39 above). Shin does not expressly disclose the selected content is a ring tune advertisement and wherein presenting the selected content with the user device upon each occurrence of a predefined condition associated with the selected content comprises presenting the selected ring tune advertisement upon each receipt of an incoming call. Kontogouris discloses advertisements and presenting selected content with the user device upon each occurrence of a predefined condition associated with the selected content (see claim 45 above). Ishii discloses presenting ring tones as advertisements upon a receipt of an incoming call (see paragraph [0003] & [00174]). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the method disclose by Shin to include the missing elements. One of ordinary skill in the art would have been motivated to do this because it promotes the music data to the public (see paragraph [0003] of Ishii).

Allowable Subject Matter

13. Claims 35 and 42-46 would be allowable if rewritten or amended to overcome the claim objection, set forth in this Office action.

14. Claim 40 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

15. Although the conditional/optional elements have been considered, Applicant is reminded that optional or conditional elements do not narrow the claims because they can always be omitted. See MPEP §2106 II. C: "Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. [Emphasis in original.]"

16. Applicant is reminded that functional recitation(s) using the word "for" or other functional language (e.g. "to be") have been considered but given less patentable weight because they fail to add any steps and are thereby regarded as intended use language. A recitation of the intended use of the claimed invention must result in additional steps. See *Bristol-Myers Squibb Co. v. Ben Venue Laboratories, Inc.*, 246 F.3d 1368, 1375-76, 58 USPQ2d 1508, 1513 (Fed. Cir. 2001) (Where the language in a method claim states only a purpose and intended result, the expression does not result in a manipulative difference in the steps of the claim.).

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jalatee Worjloh whose telephone number is 571-272-6714. The examiner can normally be reached on Monday - Friday 10:00 - 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Calvin Hewitt II can be reached on 571-272-6709. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300 for regular communications and 571-273-6714 for Non-Official /Draft.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jalatee Worjloh/
Primary Examiner, Art Unit 3685